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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BENJAMIN TADEO-HERNANDEZ; et
al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-71383

Agency Nos. A79-561-362
A79-561-363

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 9, 2006^{**}

Before: HUG, O'SCANLAIN, and SILVERMAN, Circuit Judges.

Benjamin Tadeo-Hernandez and Ruth Noemi Gastelum-Tadeo, natives and
citizens of Mexico, petition for review of the Board of Immigration Appeals'

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

decisions adopting and affirming an immigration judge's decision denying their applications for cancellation of removal.

We lack jurisdiction to entertain this petition for review because the Board's discretionary determination that petitioners failed to establish exceptional and extremely unusual hardship to their United States citizen children is unreviewable. 8 U.S.C. § 1252(a)(2)(B)(i); *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 929-30 (9th Cir. 2005). Petitioners' contention that the immigration judge denied them due process, by finding their testimony and documentation insufficient to establish the requisite exceptional and extremely unusual hardship, is an attempt to recast an abuse-of-discretion argument as a due-process claim; it is not a colorable constitutional claim over which we have jurisdiction. *Id.*, at 930.

PETITION FOR REVIEW DISMISSED.¹

¹We need not address petitioners' challenge to the immigration judge's finding that they failed to establish the requisite ten years of continuous residence because even if that finding is erroneous, the unreviewable determination regarding hardship requires denial of relief and dismissal of this petition for review. *Id.*